



STATE OF INDIANA

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December 29, 2015

Mr. Christopher Krzysztof Rudzinski
P.O. Box 89
La Porte, Indiana 46350

Re: Formal Complaint 15-FC-309; Alleged Violation of the Access to Public Records Act by the Michigan City Area Schools

Dear Mr. Rudzinski,

This advisory opinion is in response to your formal complaint alleging the Michigan City Area Schools ("MCAS") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* MCAS has responded to your complaint via Counsel, Mr. William Kaminski, Esq., and Mr. Nicholas Otis, Esq. Their response(s) are enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on November 17, 2015.

BACKGROUND

Your complaint dated November 16, 2015 alleges the MCAS violated the Access to Public Records Act by not providing the documents requested within a reasonable time frame.

You requested numerous documents - "any and all documents" related to certain employees of MCAS. You contend the MCAS has not provided several documents requested.

On December 2, 2015 the MCAS responded via counsel. Counsel notes that due to an error on its part, a document you requested was not provided. However, counsel states it has taken remedial actions and provided you with the public record.

You filed a supplement to your complaint on December 7, 2015, alleging the MCAS did not provide documents related to two (2) of the named personnel. On December 14, 2015 counsel responded. Counsel contends your original request for the employees records sought documents less inclusive than the complaint you filed with this office. However, counsel contends the MCAS is fulfilling your requests within a reasonable time.



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ANALYSIS

The public policy of the APRA states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” See Ind. Code § 5-14-3-1. The Michigan City Area Schools is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy MCAS’s disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

With regard to the first complaint, the MCAS notes it was an error on its part which led to you not receiving the documents you requested. Further, counsel for MCAS has taken remedial action. The corrective action and the concession of an administrative error demonstrates good faith, however, it is my sincere hope you have not been unduly prejudiced by the oversight and resulting delay.

I will also note that all of your requests appear to lack reasonable particularity. A valid public records request needs to specify a particular record or set of records, not simply, “Provide a document which may or may not contain the information I’m seeking.” While a form or document does not have to be identified with pinpoint accuracy, a request should not cast such a wide net. If you want a resume or an application or a timesheet or pay stub or an employee profile, you should indicate so. This takes guesswork out of the equation. These are tangible documents which should exist within most government human resources offices and can be generally provided without significant redaction or delay.

Reasonable particularity is not defined under the APRA. However, if an agency cannot determine what records are sought, then the request lacks reasonable particularity on its face. In this case, it appears the MCAS has gone beyond what is required under the APRA to fulfill your requests pursuant to the controlling law on disclosure of personnel records, Ind. Code § 5-14-3-4(b)(8).

Given the lack of “reasonable particularity” and the numerous records requested, it does not appear a period of one month to provide specific records to you is an unreasonable delay.



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CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Michigan City Area Schools has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", is written over a horizontal line.

Luke H. Britt
Public Access Counselor

Cc: Mr. William Kaminski, Esq.
Mr. Nicholas Otis, Esq.